IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WA.No. 1588 of 2007

AGAINST THE JUDGEMENT IN WP(C)NO.4959/2007 Dated 04/04/2007

APPELLANTS: RESPONDENTS 1 & 2:

1. THE REGIONAL TRANSPORT AUTHORITY, PATHANAMTHITTA, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, PATHANAMTHITTA.

BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU

RESPONDENTS: PETITIONER & RESPONDENTS 3 & 4:

1. CHERIYAN STEVEN, ANNIYIL HOUSE, KATTANAM, PALLICKAL, ALAPPUZHA.

2. THE REGIONAL TRANSPORT AUTHORITY, ALAPPUZHA, REPRESENTED BY ITS SECRETARY.

3. THE DISTRICT TRANSPORT OFFICER, K.S.R.T.C., PATHANAMTHITTA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1588 OF 2007

Dated this the 3rd July, 2007

JUDGMENT

H.L.DATTU, C.J.

This appeal arises out of the judgment delivered by the learned single Judge in W.P.(C) No.4959 of 2007, dated 4th April, 2007. The facts in brief are: The first respondent in this appeal was the petitioner before this Court in W.P.(C) No.4959 of 2007. He was calling in question the orders passed by the Regional Transport Authority, dated 21st August, 2006.

2. The first respondent/petitioner was having a permit on the route Pathanamthitta – Kattanam. He applied for variation of the permit before the Regional Transport Authority. The said application was rejected by the Regional Transport Authority by its order dated 31st October, 2005. In that order, it has stated as under:

> "Heard. Rejected since scheme violation and proposed portion is well served."

3. Aggrieved by the said order passed by the Regional Transport Authority, the first respondent had carried the matter before the State Transport Appellate Tribunal, Ernakulam in case M.V.A.A. No.45 of 2006. The Tribunal has allowed the appeal and has directed the Regional Transport Authority to grant

variation in the permit as claimed by the first respondent subject to settlement of timings. The orders passed by the State Transport Appellate Tribunal reads as under:

> "The appeal is against the order declining variation by extension.
>
> 2. The only ground of denial is overlapping of notified route.
>
> 3. The notified routes are Kayamkulam-Punalur and Kayamkulam-Kulathupuzha. Those routes fall under partial exclusion scheme. Even after proposed valuation the route will not cover a notified route. Hence no scheme violation will be resulted. Hence the dismissal is on a faulty ground.
>
> In the result, the appeal is allowed, the impugned order is set aside and it is ordered to grant variation as claimed subject to settlement of timing."

4. After such remand, the Regional Transport Authority has passed yet another order dated 21st August, 2006. In that order, they reiterated what they had said on 31st October, 2005. It is as under:

> "1. No circumstances changed as per rule 145.
> 2. Violation of Supplementation scheme.
> 3. The proposed extension overlaps from Kattanam to Kayamkulam notified scheme of KSRTC. Kayamkulam Punalur Kulathupuzha. Hence variation rejected."

5. Aggrieved by this high-handed action of the Regional Transport Authority, the first respondent/petitioner was before this Court in W.P.(C) No.4959 of 2007.

6. This Court, after noticing the earlier orders passed by the

Regional Transport Authority and the remand orders passed by the State Transport Appellate Tribunal and further orders passed after such remand by the Regional Transport Authority, has come to the conclusion that the Regional Transport Authority has clearly violated the orders and directions issued by the State Transport Appellate Tribunal while disposing of the appeal filed by the first respondent. For the omissions and commissions while passing the aforesaid order, the learned Judge has thought it fit to impose an exemplary cost of Rs.15,000/-, payable by the State Government and with liberty to the State Government to recover the same from the Members of the Regional Transport Authority which took Ext.P3 decision.

7. Aggrieved by the aforesaid order passed by the learned single Judge, the State is in this appeal.

8. Sri.M.R.Sabu, learned Senior Government Pleader, would submit that the learned single Judge was not justified in imposing the exemplary cost while allowing the writ petition filed by the first respondent in the appeal.

9. The contention canvassed by the learned counsel, in our opinion, has no merit whatsoever. In the hierarchy of officers, the State Transport Appellate Tribunal is the authority before whom the orders passed by the Regional Transport Authority would go by way of appeals. The Regional

Transport Authority is expected to follow the orders and directions issued by the State Transport Appellate Tribunal faithfully. If, for any reason, the Regional Transport Authority was of the opinion that the State Transport Appellate Tribunal was not justified in allowing the appeal and issuing certain directions, they should have questioned the same before an appropriate forum. Without questioning the said orders passed by the State Transport Appellate Tribunal, the Regional Transport Authority is not exepcted to repeat and reiterate what has been set aside by the State Transport Appellate Tribunal. Keeping all these aspects in the matter, in our view, the learned single Judge has rightly imposed an exemplary cost of Rs.15,000/-, payable initially by the State Government and thereafter to recover it from the Members of the Regional Transport Authority. We do not find any error in the judgment delivered by the learned single Judge, which would call for our interference. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J. &
K.T.SANKARAN, J.

W.A.NO. 1588 OF 2007

JUDGMENT

3rd July, 2007